

Article 6.

County Water and Sewer Districts.

§ 162A-86. Formation of district; hearing.

(a) The board of commissioners of any county may create a county water and sewer district.

(a1) The governing board of a consolidated city-county, as defined by G.S. 160B-2(1), may create a water and sewer district pursuant to this Article. For the purposes of this Article, the term "board of county commissioners" shall also mean the governing board of a consolidated city-county and the term "county water and sewer district" also means a water and sewer district created by the governing board of a consolidated city-county.

(b) Before creating such a district, the board of commissioners shall hold a public hearing. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall set forth a description of the territory to be included within the proposed district. The notice shall be published once a week for three weeks in a newspaper that circulates in the proposed district and in addition shall be posted in at least three public places in the district. The notice shall be posted and published the first time not less than 20 days before the hearing.

(b1) Before creating such a district, the board of commissioners shall hold a public hearing. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall set forth a description of the territory to be included within the proposed district. The notice shall be published once in a newspaper that circulates in the proposed district and in addition shall be posted in at least three public places in the district. The notice shall be posted and published not more than 30 nor less than 14 days before the hearing. The newspaper notice and the public hearing may cover more than one district covered by this subsection.

This subsection applies only when the local Health Director or the State Health Director has certified that there is a present or imminent serious public health hazard caused by the failure of a low-pressure pipe sewer system within the area of the proposed district, and in such case the board of commissioners may proceed either under subsection (a) of this section or under this subsection.

(c) At the public hearing, the commissioners shall hear all interested persons and may adjourn the hearing from time to time. (1977, c. 466, s. 1; 1979, c. 624, ss. 2, 3; 1993 (Reg. Sess., 1994), c. 696, s. 1; c. 714, s. 1; 1995, c. 461, s. 7.)

§ 162A-87. Creation of district; standards; limitation of actions.

(a) Following the public hearing, the board of commissioners may, by resolution, create a county water and sewer district if the board finds that:

- (1) There is a demonstrable need for providing in the district water services, or sewer services, or both;
- (2) The residents of all the territory to be included in the district will benefit from the district's creation; and
- (3) It is economically feasible to provide the proposed service or services in the district without unreasonable or burdensome annual tax levies.

Territory lying within the corporate limits of a city or town may not be included in the district unless the governing body of the city or town agrees by resolution to such inclusion. Otherwise, the board of commissioners may define as the district all or any portion of the territory described in the notice of the public hearing.

(b) Upon adoption of a resolution creating a county water and sewer district, the board of commissioners shall cause the resolution to be published once in each of two successive weeks in the newspaper in which the notices of the hearing were published. In addition, the commissioners shall cause to be published with the resolution a notice in substantially the following form:

"The foregoing resolution was adopted by the _____ County Board of Commissioners on _____ and was first published on _____.

Any action or proceeding questioning the validity of this resolution or the creation of the _____ Water and Sewer District of _____ County or the inclusion in the district of any of the territory described in the resolution must be commenced within 30 days after the first publication of the resolution.

Clerk, _____ County Board of
Commissioners"

Any action or proceeding in any court to set aside a resolution creating a county water and sewer district, or questioning the validity of such a resolution, the creation of such a district, or the inclusion in such a district of any of the territory described in the resolution creating the district must be commenced within 30 days after the first publication of the resolution and notice. After the expiration of this period of limitation, no right of action or defense founded upon the invalidity of the resolution, the creation of the district, or the inclusion of any territory in the district may be asserted, nor may the validity of the resolution, the creation of the district, or the inclusion of the territory be open to question in any court upon any ground whatever, except in an action or proceeding commenced within that period.

Notwithstanding any other provision of this section, in the case of any county water and sewer districts created under G.S. 162A-86(b1):

- (1) A resolution may cover the creation of more than one district;
- (2) The board of commissioners shall cause the resolution to be published once in the newspaper in which the notice of the hearing was published; and
- (3) References in this subsection to "30 days" are instead "21 days". (1977, c. 466, s. 1; 1979, c. 624, s. 4; 1993 (Reg. Sess., 1994), c. 696, s. 2; c. 714, s. 2.)

§ 162A-87.1. Extension of water and sewer districts.

(a) Standards. – The board of commissioners may, by resolution, annex territory to any water and sewer district upon a finding that:

- (1) The area to be annexed is contiguous to the district, with at least one eighth of the area's aggregate external boundary coincident with the existing boundary of the district;
- (2) The residents of the territory to be annexed will benefit from the annexation; and
- (3) It is economically feasible to provide the proposed service or services in the annexed district without unreasonable or burdensome annual tax levies.

(b) Annexation by Petition. – The board of commissioners may, by resolution, extend by annexation the boundaries of any water or sewer district when one hundred percent (100%) of the real property owners of the area to be annexed have petitioned the board for annexation to the water and sewer district.

(c) Annexation of Property within a City or Sanitary District. – Territory lying within the corporate limits of a city or sanitary district may not be annexed to a water and sewer district unless the governing body of the city or sanitary district agrees, by resolution, to the annexation.

(d) Report. – Before the public hearing required by subsection (e) of this section, the board of commissioners shall have prepared a report containing:

- (1) A map of the water and sewer district and the adjacent territory, showing the present and proposed boundaries of the district; and
- (2) A statement showing that the area to be annexed meets the standards and requirements established in subsections (a), (b), or (c) of this section.

The report shall be available for public inspection in the office of the clerk of the board of commissioners for at least two weeks before the date of the public hearing required by subsection (e) of this section.

(e) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution extending the boundaries of a water and sewer district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (d) of this section is available for inspection in the office of the clerk of the board of commissioners. The notice shall be published at least once not less than one week before the date of the hearing. In addition, unless the hearing is because of a petition for annexation submitted under subsection (b) of this section, the notice shall be mailed, at least four weeks before the date of the hearing, to the owners, as shown by the county tax records as of the preceding January 1, of all property located within the area to be annexed. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated by the board of commissioners to mail the notice shall certify to the board of commissioners that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(f) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board of commissioners. (1985, c. 627, s. 1; 1989, c. 543.)

§ 162A-87.1A. Initial boundaries of district.

(a) The initial boundaries of a district may exclude areas contained solely within the external boundaries of the district.

(b) The initial boundaries of a district may include noncontiguous portions, as long as the closest distance from a noncontiguous piece to the part of the district containing the greatest area does not exceed one mile.

(c) This section does not invalidate any district created prior to the effective date of this section. (1993 (Reg. Sess., 1994), c. 696, s. 3; c. 714, s. 3.)

§ 162A-87.1B. Transfer of State-owned property from one district to another.

If any property owned by the State is located in a county water and sewer district, the board of commissioners of that county by resolution may transfer the property to another county water and sewer district in that county. This section only applies if the State acquired the property from the county. Any such resolution shall become effective on the date specified in the resolution, and a copy of the resolution shall be sent to the Department of Administration. (2005-127, s. 1; 2006-226, s. 29.)

§ 162A-87.2. Abolition of water and sewer districts.

(a) Upon finding that there is no longer a need for a water and sewer district and that there are no outstanding bonds or notes issued to finance projects in the district, the board of commissioners may, by resolution, abolish that district. The board of commissioners shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board of commissioners.

(b) If the:

- (1) Terms of any contract between a county water and sewer district and a city provide that upon certain conditions, all the property of the district is conveyed to that city; and
- (2) District has at the time of abolition no existing bonds or notes issued as authorized by G.S. 162A-90 to finance projects in the district,

then such contract may also provide that no earlier than such conveyance the district may be abolished by action of the governing board of the city. If the district has any other indebtedness, a contract providing for conveyance of all of the assets of a district to a city must provide for assumption of such other indebtedness by the city. If the district is owed any assessments, then the right to collect such assessments becomes that of the city. The governing board of the city shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year of the district following passage of the resolution, as determined by the governing board. This subsection applies only to a county water and sewer district created under G.S. 162A-86(b1).

(c) If the:

- (1) Terms of any contract between a county water and sewer district and a private person provide that upon certain conditions, all the property of the district is conveyed to that private person; and
- (2) District has at the time of abolition no existing bonds or notes issued as authorized by G.S. 162A-90 to finance projects in the district,

such contract may also provide that no earlier than such conveyance the district may be abolished by action of the Utilities Commission. If the district has any other indebtedness, a contract providing for conveyance of all of the assets of a district to a private person must provide for assumption of such other indebtedness by the private person. If the district is owed any assessments, then the private person may collect the assessment under the same procedures as if it was the district. The Utilities Commission shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any water and sewer district shall take effect at the end of a fiscal year of the district following passage of the resolution, as determined by the Utilities Commission. This subsection applies only to a county water and sewer district created under G.S. 162A-86(b1).

(d) Any resolution of abolition adopted under this section on or after the effective date of this section shall be filed with the Secretary of State. (1985, c. 627, s. 2; 1993 (Reg. Sess., 1994), c. 696, s. 4; c. 714, s. 4.)

§ 162A-87.3. Services outside the district.

(a) A county water and sewer district may provide water or sewer services, or both, to customers outside the district, but in no case shall the county water and sewer district be held liable for damages to those outside the district for failure to furnish such services.

(b) A county water and sewer district may provide a different schedule of rents, rates, fees, and charges for services provided outside the district.

(c) A county water and sewer district may not extend service to customers lying within the corporate limits of a city or sanitary district unless the governing body of a city or sanitary district agrees, by resolution, to the extension.

(d) A county water and sewer district may not extend service to customers lying within another county unless the board of commissioners of that county agrees, by resolution, to the extension. (1989, c. 726, s. 1.)

§ 162A-88. District is a municipal corporation.

(a) The inhabitants of a county water and sewer district created pursuant to this Article are a body corporate and politic by the name specified by the board of commissioners. Under that name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property, real and personal, devised, sold, or in any manner conveyed, dedicated to, or otherwise acquired by them, and from time to time may hold, invest, sell, or dispose of the same; may have a common seal and alter and renew it at will; may establish, revise and collect rates, fees or other charges and penalties for the use of or the services furnished or to be furnished by any sanitary sewer system, water system or sanitary sewer and water system of the district; and may exercise those powers conferred on them by this Article.

(b) The district board may require system development fees only in accordance with Article 8 of this Chapter. (1977, c. 466, s. 1; 1979, c. 624, s. 5; 2011-284, s. 124; 2017-138, s. 9.)

§ 162A-88.1. Contracts with private entities.

A county water and sewer district may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county water and sewer district is authorized by law to engage in. (1993 (Reg. Sess., 1994), c. 696, s. 5; c. 714, s. 5.)

§ 162A-89. Governing body of district; powers.

(a) The board of commissioners of the county in which a county water and sewer district is created is the governing body of the district.

(b) The governing board of a consolidated city-county in which a water and sewer district is created is the governing body of the district. (1977, c. 466, s. 1; 1995, c. 461, s. 8.)

§ 162A-89.1. Eminent domain power authorized.

A county water and sewer district shall have the power of eminent domain, to be exercised in accordance with the provisions of Chapter 40A of the General Statutes, over the acquisition of any

improved or unimproved lands or rights in land, within or without the district. (1977, c. 466, s. 1; 1983, c. 735, s. 1.; 1987, c. 2, s. 2)

§ 162A-90. Bonds and notes authorized.

A county water and sewer district may from time to time issue general obligation and revenue bonds and bond anticipation notes pursuant to the Local Government Finance Act, for the purposes of providing sanitary sewer systems or water systems or both.

A county water and sewer district may from time to time issue tax and revenue anticipation notes pursuant to Chapter 159, Article 9, Part 2. (1977, c. 466, s. 1.)

§ 162A-91. Taxes authorized.

The governing body of a county water and sewer district may levy property taxes within the district in order to finance the operation and maintenance of the district's water system or sewer system or both and in order to finance debt service on any general obligation bonds or notes issued by the district. No voter approval is necessary in order for such taxes to be levied. (1977, c. 466, s. 1.)

§ 162A-92. Special assessments authorized.

A county water and sewer district may make special assessments against benefited property within the district for all or part of the costs of:

- (1) Constructing, reconstructing, extending, or otherwise building or improving water systems;
- (2) Constructing, reconstructing, extending, or otherwise building or improving sewage disposal systems.

A district shall exercise the authority granted by this section according to the provisions of Chapter 153A, Article 9. For the purposes of this section references in that Article to the "county" and the "board of commissioners" are deemed to refer, respectively, to the "district" and the "governing body of the district." (1977, c. 466, s. 1.)

§ 162A-93. Certain city actions prohibited.

(a) No city may duplicate water or sewer services provided by a district under this Article by installing parallel lines and requiring owners of improved property in territory annexed by the city to connect, except with consent of the district governing body.

(b) The provisions of subsection (a) shall not apply if the city council adopts an annexation ordinance including an area served by a district and finds, after a public hearing, that adequate fire protection cannot be provided in the area because of the level of available water service. Notice of the public hearing shall be provided by first class mail to each affected customer and by publication in a newspaper having general circulation in the area, each not less than 10 days before the hearing. The clerk's certification of the mailing shall be deemed conclusive in the absence of fraud. Any resident of the annexed area aggrieved by such a finding of the council may file a petition for review in the superior court in the nature of certiorari, within 30 days after the finding. The petition for review in the nature of certiorari shall comply with G.S. 160A-393.

(c) Provision of public water and sewer services by a district under this Article to an area annexed by a city shall satisfy the city's obligation to provide for water and sewer services under G.S. 160A-35 and G.S. 160A-47. The city may negotiate for purchase of the lines or systems owned and operated by the district.

(d) Upon annexation by a city of an area served by a district under this Article, the city may provide for installation of and use fire hydrants on the district water lines, by arrangement with the district and at the city's cost. (1989, c. 741, s. 1; 2009-421, s. 4.)

§ 162A-94. Certain actions validated.

Any contract entered into by a county water and sewer district on or before February 1, 1995, is not invalid because of failure to comply with Article 8 of Chapter 143 of the General Statutes. (1995, c. 266, s. 1.)

§§ 162A-95 through 162A-100. Reserved for future codification purposes.